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Arizona Corporation Commission

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OCT 07 2016

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[Signature]

Timothy M. Hogan (004567)
ARIZONA CENTER FOR LAW
IN THE PUBLIC INTEREST
514 W. Roosevelt Street
Phoenix, Arizona 85003
(602) 258-8850
Attorneys for Earthjustice

BEFORE THE ARIZONA CORPORATION COMMISSION

DOUG LITTLE, Chairman
BOB STUMP
BOB BURNS
TOM FORESE
ANDY TOBIN

IN THE MATTER OF THE APPLICATION
OF ARIZONA PUBLIC SERVICE
COMPANY FOR A HEARING TO
DETERMINE THE FAIR VALUE OF THE
UTILITY PROPERTY OF THE COMPANY
FOR RATEMAKING PURPOSES, TO FIX A
JUST AND REASONABLE RATE OF
RETURN THEREON, TO APPROVE RATE
SCHEDULES DESIGNED TO DEVELOP
SUCH RETURN.

Docket No. E-01345A-16-0036

E-01345A-16-0123

**MOTION TO ASSOCIATE
COUNSEL PRO HAC VICE FOR
DAVID BENDER**

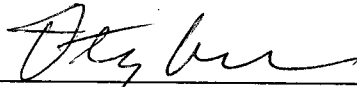
Timothy M. Hogan, pursuant to Ariz. R. Sup. Ct. Rule 39, moves the Arizona
Corporation Commission to associate David Bender as counsel *pro hac vice* in this action. In
support of this motion and pursuant to Rule 39(c)(1)(A), the following original documents are
attached:

1. Verified Application to Appear *Pro Hac Vice* (Exhibit A);
2. Certificate(s) of Good Standing (Exhibit B); and

1 3. State Bar of Arizona Notice of Receipt of Complete Application (Exhibit C).

2 Timothy M. Hogan hereby agrees to serve as local counsel in this matter and accepts the
3 responsibilities detailed in Ariz. R. Sup. Ct. Rule 39(b).
4

5 DATED this 7th day of October, 2016.

6 

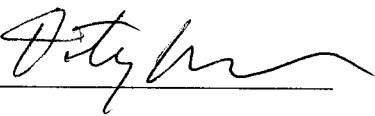
7 _____
8 Timothy M. Hogan
9 Arizona Center for Law in the Public Interest
10 514 W. Roosevelt Street
11 Phoenix, AZ 85003
12 Phone: (602) 258-8850
13 *Attorney for Earthjustice*

14 ORIGINAL and 13 COPIES of the
15 Foregoing filed this 7th day of October,
16 2016, with:

17 Docketing Supervisor
18 Docket Control
19 Arizona Corporation Commission
20 1200 W. Washington
21 Phoenix, AZ 85007

22 COPIES of the foregoing
23 Electronically mailed this
24 7th day of October, 2016, to:

25 All Parties of Record
26

27 

Arizona Corporation Commission

In the matter of the application of Arizona
Public Service Company for a hearing to
determine the fair value of the utility property
of the company for ratemaking purposes, to
fix a just and reasonable rate of return
thereon, to approve rate schedules designed
to develop such return.

CASE # E-01345A-160036

SBA App #1009783

NOTICE OF RECEIPT OF
COMPLETE APPLICATION

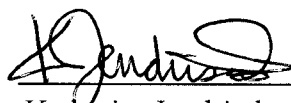
NOTICE IS HEREBY given by THE STATE BAR OF ARIZONA that it has received the
verified application and fee from David Bender.

In addition to this application, applicant has made the following applications to appear pro hac
vice, pursuant to Rule 39, within the previous three (3) years:

| Title of Matter | Court/Agency | Date | Granted? |
|--|-----------------------------------|-----------|----------|
| In the matter of the application of Tucson Electric Power Company for the establishment of just and reasonable rates and charges designed to realize a reasonable rate of return on the fair value of the properties of Tucson Electric Power Company devoted to its operations throughout the state of Arizona and for related approvals. | Arizona Corporation Commission | 8/10/2016 | N |

Exhibit A, the original verified application and Exhibit B, the original Certificate(s) of Good
Standing are attached hereto.

DATED this 2nd day of September 2016



Katherine Jendrisak
Resource Center Specialist
State Bar of Arizona

Original Mailed on this 2nd day of September 2016 to:

Timothy M Hogan
Arizona Center for Law in the Public Interest
514 W Roosevelt St Ste 200
Phoenix, AZ 85003-1385



Attn: Pro Hac Vice Dept
P.O. Box 53099
Phoenix, AZ 85072-3099
Phone: 602-340-7239

For Official Use Only
App# 1009783
Bar Number# P198844

Overnight or Hand Delivery:
4201 N. 24th St., Ste 100
Phoenix, AZ 85016-6266

8/29/2016
28129
\$490.00

Application for Appearance Pro Hac Vice

PART I: Applicant Information

Name of Applicant: David Bender

Firm/Company Name: Earthjustice

Office Address: 1625 Massachusetts Ave., NW, Suite 702

Telephone: 202.667.4500 Fax: 202.667.2356 Email Address: dbender@earthjustice.org

Residence Address: _____

Title of cause or case where applicant seeks to appear: In the matter of the application of Arizona Public Service Company for a hearing to determine the fair value of the utility property of the company for ratemaking purposes, to fix a just and reasonable rate of

Docket Number: E-01345A-16-0036

Court, Board, or Administrative Agency: Arizona Corporation Commission

Party on whose behalf applicant seeks to appear: Vote Solar

Pursuant to Arizona Supreme Court Rule 39(a)(4), the applicant shall complete the information below:

Courts to Which Applicant Has Been Admitted:
(Attach additional pages if necessary)

Date of Admission:

Bar Number:

Wisconsin

06/23/2003

1046102

☒ Applicant is a member in good standing in such courts.

☒ Applicant is not currently disbarred or suspended in any court.

Applicant ☐ is / ☒ is not **(select one)** currently subject to any pending disciplinary proceeding or investigation by any court, agency or organization authorized to discipline attorneys at law. If yes, specify the jurisdiction, nature of investigation and contact information of the disciplinary authority investigating on an additional page.

In the preceding three (3) years, applicant has filed applications to appear as counsel under Ariz. R. Sup. Ct., Rule 39(a) in the following:

| Title of Matter: | Docket #: | Court or Agency: | App Granted? (Y/N) |
|------------------|-----------|------------------|--------------------|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

This case or cause ☐ is / ☐ is not **(select one)** a related or consolidated matter for which applicant has previously applied to appear pro hac vice in Arizona. If this matter is a related or consolidated with any previous application, Applicant certifies that he/she will review and comply with appropriate rules of procedure as required in the underlying cause.

If applicable, please provide related or consolidated matter application or docket# _____



Attn: Pro Hac Vice Dept
P.O. Box 53099
Phoenix, AZ 85072-3099
Phone: 602-340-7239

For Official Use Only
App# 1009783
Bar Number# P198844

Overnight or Hand Delivery:
4201 N. 24th St., Ste 100
Phoenix, AZ 85016-6266

8/29/2010
0281129
\$490.00

Application for Appearance Pro Hac Vice

PART I: Applicant Information

Name of Applicant: David Bender

Firm/Company Name: Earthjustice

Office Address: 1625 Massachusetts Ave., NW, Suite 702, Washington, DC 20036

Telephone: 202.667.4500 Fax: 202.667.2356 Email Address: dbender@earthjustice.org

Residence Address: 3916 Nakoma Rd., Madison, WI 53711

Title of cause or case where applicant seeks to appear: In the matter of the application of Arizona Public Service Company for a hearing to determine the fair value of the utility property of the company for ratemaking purposes, to fix a just and reasonable rate of
Docket Number: E-01345A-16-0036

Court, Board, or Administrative Agency: Arizona Corporation Commission

Party on whose behalf applicant seeks to appear: Vote Solar

Pursuant to Arizona Supreme Court Rule 39(a)(4), the applicant shall complete the information below:

Courts to Which Applicant Has Been Admitted:
(Attach additional pages if necessary)

Date of Admission:

Bar Number:

Wisconsin

06/23/2003

1046102

U.S.W.D. Wisconsin

06/23/2003

U.S. C.D.III.

05/12/2010

U.S.D. Colo.

06/25/2010

☒ Applicant is a member in good standing in such courts.

☒ Applicant is not currently disbarred or suspended in any court.

Applicant ☐ is / ☒ is not (select one) currently subject to any pending disciplinary proceeding or investigation by any court, agency or organization authorized to discipline attorneys at law. If yes, specify the jurisdiction, nature of investigation and contact information of the disciplinary authority investigating on an additional page.

In the preceding three (3) years, applicant has filed applications to appear as counsel under Ariz. R. Sup. Ct., Rule 39(a) in the following:

Title of Matter:

Docket #:

Court or Agency:

App Granted? (Y/N)

See Attachment A.

This case or cause ☐ is / ☒ is not (select one) a related or consolidated matter for which applicant has previously applied to appear pro hac vice in Arizona. If this matter is a related or consolidated with any previous application, Applicant certifies that he/she will review and comply with appropriate rules of procedure as required in the underlying cause.

If applicable, please provide related or consolidated matter application or docket# _____

PART II: Local Counsel Information

Name of Arizona Local Counsel: Timothy M. Hogan

State Bar of Arizona Number: 004567

Address: Arizona Center for Law in the Public Interest, 514 W. Roosevelt Street, Phoenix, Arizona 85003

Telephone: (602) 258-8850

Fax: (602) 258-8757

Email Address: thogan@aclpi.org

☒ Local Counsel is a member in good standing.

☒ Local Counsel associating with a nonresident attorney in a particular cause shall accept joint responsibility with the nonresident attorney to the client, to opposing parties and counsel, and to court, board, or administrative agency in that particular cause.

PART III: Parties and Certification

Name(s) of each party in this cause and name and address of all counsel of record:

| Party: | Counsel of Record: | Address: |
|----------------------|--------------------|----------|
| <u>See attached.</u> | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

☒ Applicant is including with this application a nonrefundable application fee, payable to the State Bar of Arizona, in the amount of \$490.00. Fifteen percent of the non-refundable application fee paid pursuant to this section shall be deposited into a civil legal services fund to be distributed by the Arizona Foundation for Legal Services and Education entirely to approved legal services organizations, as that term is defined in subparagraph (f) of this rule.

☒ Applicant is furnishing a certificate from the state bar or from the clerk of the highest admitting court of each state, territory, or insular possession of the United States in which the nonresident attorney has been admitted to practice law certifying the nonresident attorney's date of admission to such jurisdiction and the current status of the nonresident attorney's membership or eligibility to practice therein. The certificate furnished shall be no more than forty-five (45) days old.

Applicant certifies the following:

1. Applicant shall be subject to the jurisdiction of the courts and agencies of the State of Arizona and to the State Bar of Arizona with respect to the law of this state governing the conduct of attorneys to the same extent as an active member of the State Bar of Arizona, as provided in Ariz. R. Sup. Ct. Rule 46(b).
2. Applicant will review and comply with appropriate rules of procedure as required in the underlying cause.
3. Applicant understands and shall comply with the standards of conduct required of members of the State Bar of Arizona.

Verification

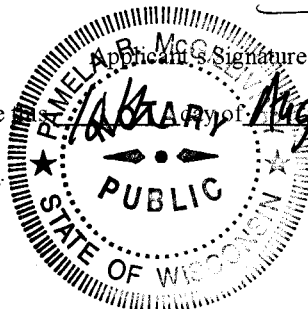
STATE OF Wisconsin
County of Dane ss.

I, David Bender, swear that all statements in the application are true, correct and complete to the best of my knowledge and belief.

Dated: 8/10/16

SUBSCRIBED AND SWORN TO before me on 10th day of August, 2016 by

David Bender
Name of Applicant



[Signature]
Notary Public

Courts admitted continued

| Court | Date | Bar # |
|-------------------------------|-------------------|-------|
| U.S. E.D. Mich. | March 27, 2013 | |
| U.S. D.D.C. | March 5, 2007 | |
| U.S. W.D. Mich. | December 8, 2008 | |
| U.S. S.D. Ind. | February 12, 2008 | |
| U.S. E.D. Wis. | December 2, 2003 | |
| U.S. N.D. Ill. | May 3, 2005 | |
| U.S. Sixth Circuit Ct. App. | Oct. 29, 2007 | |
| U.S. Seventh Circuit Ct. App. | April 2, 2004 | |
| U.S. Ninth Circuit Ct. App. | June 28, 2012 | |
| U.S. Tenth Circuit Ct. App. | March 24, 2014 | |

Bender Application
Attachment A

In the preceding three (3) years, applicant has filed applications to appear as counsel under Ariz. R. Sup. Ct., Rule 39(a) in the following:

| Title of Matter: | Docket #: | Court or Agency | App Granted? |
|--|-------------------|--------------------------------|--------------|
| In the matter of the application of Tucson Electric Power Company for the establishment of just and reasonable rates and charges designed to realize a reasonable rate of return on the fair value of the properties of Tucson Electric Power Company devoted to its operations throughout the state of Arizona and for related approvals. | E-013933A-15-0322 | Arizona Corporation Commission | Yes |

Bender Application
Attachment B

Names of each party in docket no. E-01345A-16-0036 and name and address of all counsel of record.

| Party | Counsel of Record |
|---|--|
| Patricia Ferre | Patricia Ferre P.O. Box 433 Payson, AZ 85547 |
| Richard Gayer | Richard Gayer 526 West Wilshire Dr. Phoenix, AZ 85003 |
| Warren Woodward | Warren Woodward 55 Ross Circle Sedona, AZ 86336 |
| IO Data Centers, LLC | Brittany L. DeLorenzo Anthony L. Wanger Alan L. Kierman IO Data Centers, LLC 615 N. 48 th Street Phoenix, AZ 85008 |
| Freeport Minerals Corporation and Arizonans for Electric Choice and Competition | Patrick J. Black C. Webb Crockett Fennemore Craig, PC 2394 E. Camelback Road, Ste. 600 Phoenix, AZ 85016-3429 |
| Sun City Home Owners Association | Steven Puck, Esq. Greg Eisert Government Affairs Sun City Homeowners Assoc. 10401 W. Coggins Drive Sun City, AZ 85351 |
| Western Resource Advocates | Timothy M. Hogan Arizona Center for Law in the Public Interest 202 E. McDowell Road, Suite 153 Phoenix, AZ 85004 |

Bender Application
Attachment B

| | |
|--|---|
| Arizona Investment Council | Meghan H. Grabel Osborn Maledon, P.A. 2929 North Central Avenue, Suite 2100 Phoenix, AZ 85012 |
| Arizona Utility Ratepayer Alliance | Craig A. Marks Craig A. Marks, PLC 10645 N. Tatum Blvd. Suite. 200-676 Phoenix, AZ 85028 |
| Property Owners and Residents Association of Sun City West | Al Gervenack Rob Robbins Property Owners & Residents Association 13815 Camino del Sol Sun City West, AZ 85372 |
| Arizona Solar Energy Industries Association | Tom Harris 2122 W. Lone Cactus Dr., Suite 2 Phoenix, AZ 85027 |
| Arizona School Boards Association and Arizona Association of School Business Officials | Timothy M. Hogan 202 E. McDowell Road, Suite 153 Phoenix, AZ 85004 |
| Arizona Community Action Association | Cynthia Zwick Kevin Hengehold Arizona Community Action Association 2700 N. 3 rd St., Ste. 3040 Phoenix, AZ 85004 |
| Residential Utility Consumer Office | Daniel W. Pozefsky Residential Utility Consumer Office 1110 West Washington, Suite 220 Phoenix, AZ 85007 |
| Arizona Public Service Company | Thomas A. Loguvam Thomas L. Mumaw Melissa M. Krueger Pinnacle West Capital Corporation 400 North 5 th Street, MS 8695 Phoenix, AZ 85004 |

Bender Application
Attachment B

| | |
|---|--|
| Vote Solar | Timothy M. Hogan 514 W. Roosevelt Street Phoenix, AZ 85003 |
| Southwest Energy Efficiency Project | Timothy M. Hogan 514 W. Roosevelt Street Phoenix, AZ 85003 |
| Electrical District Number Eight and McMullen Valley Water Conservation & Drainage District | Jay I. Moyes Moyes Sellers & Hendricks, Ltd. 1850 N. Central Ave., Ste. 1100 Phoenix, AZ 85012 |
| The Kroger Co. | Kurt J. Boehm Jody Kyler Cohn Boehm Kurtz & Lowry 36 E. Seventh Street, Suite 15110 Cincinnati, OH 45202 John William Moore, Jr. 1321 North 16 th Street Phoenix, AZ 85020 |
| Noble Americas Energy Solutions, LLC | Lawrence V. Roberson, Jr. PO Box 1448 Tubac, AZ 85646 |
| Tucson Electric Power Company | Michael W. Patten Jason D. Gellman Snell & Wilmer, LLP One Arizona Center 400 East Van Buren Street Phoenix, AZ 85004 |
| Pima County | Charles Wesselhoft Pima County Attorney's Office 32 North Stone Ave., Ste. 2100 Tucson, AZ 85701 |
| Solar Energy Industries Association | Giancarlo G. Estrada Kamper Estrada, LLP 3030 N. 3 rd Street, Ste. 770 Phoenix, AZ 85012 |

Bender Application
Attachment B

| | |
|--|---|
| Energy Freedom Coalition of America | Court S. Rich Rose Law Group PC 7144 E. Stetson Dr., Ste. 300 Scottsdale, AZ 85251 |
| Wal-Mart Stores, Inc. | Scott S. Wakefield Hienton Curry, PLLC 5045 N. 12 th Street, Suite 110 Phoenix, AZ 85014 |
| Local Unions 387 and 769 of IBEW, AFL-CIO | Nicholas J. Enoch Kaitlyn A. Redfield-Ortiz Emily A. Tornabene Lubin & Enoch, PC 349 N. 4 th Ave. Phoenix, AZ 85003 |
| Arizona Competitive Power Alliance | Greg Patterson Munger Chadwick 916 West Adams, Ste. 3 Phoenix, AZ 85007 |
| Arizona Corporation Commission | Janice Alward – Legal Division Thomas Broderick – Utilities Division Arizona Corporation Commission 1200 W. Washington Street Phoenix, AZ 85007 |



Diane M. Fremgen
Clerk

WISCONSIN SUPREME COURT

OFFICE OF THE CLERK

110 E. Main Street, Suite 215

P.O. Box 1688

Madison, WI 53701-1688

Telephone: 608-266-1880

TTY: 800-947-3529

Fax: 608-267-0640

<http://www.wicourts.gov>

CERTIFICATE OF GOOD STANDING

*I, Christopher J. Paulsen, Chief Deputy Clerk of the Supreme Court of Wisconsin
certify that the records of this office show that:*

DAVID C. BENDER

*was admitted to practice as an attorney within this state on June 23, 2003 and is
presently in good standing in this court.*

Dated: August 4, 2016

A handwritten signature in cursive script, reading "Christopher J. Paulsen".

CHRISTOPHER J. PAULSEN
Chief Deputy Clerk of Supreme Court